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MATERIALS
ON
ALTERNATIVE APPROACHES TO LEGAL SCHOLARSHIP

1986-87

VOLUME I

Prepared by:

Michael J. Trebilcock
and
Todd Ducharme

With the assistance of colleagues at the University of Toronto
Law School

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R.A. Epstein, "Positive and Normative Elements in Legal Education",
(1985) 8 Harv. J. of Law and Public Policy 255

D. Kennedy, "Positive and Normative Elements in Legal Education:
A Response", (1985) 8 Harv. 5 of Law and Public Policy 265

R.A. Epstein and Duncan Kennedy, "Views on Legal Education:
An Exchange" (1985) 8 Harv. J. of Law and Public Policy 269

P.D. Carrington, "Of Law and the River" (1984) 34 J. Legal Ed
222

"'Of Law and the River', and of Nihilism and Academic
Freedom" (1985) 35 J. Legal Ed. 1

I. Introduction - Peter W. Martin

II. Nihilism - Correspondence Between Robert W. Gordon
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III. Academic Freedom - Paul Brest to Paul D. Carrington

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Louis B Schwartz to Paul Brest

William W. VanAlstyne to the committee on Academic
Freedom and Tenure of the American Association of
University Professors

IV. Professional Schools - Guido Calabresi to Paul D.
Carrington

Correspondence Between Owen M. Fiss and Paul D. Carrington

Arthur Allen Leff, "Unspeakable Ethics, Unnatural Law", (1979)
Duke L.J. 1229

Owen Fiss, "Objectivity and Interpretation", (1982) 34 Stanford
L.R. 739

WEEK 2: LEGAL HISTORY I

Materials to be distributed

WEEK 3: LEGAL HISTORY II

Materials to be distributed

WEEK 4: CRITICAL LEGAL STUDIES I

A.C. Hutchinson and P.J. Monahan, "Law, Politics and the Critical Legal Scholars: The Unfolding Drama of American Legal Thought" (1984) 36 Stan. L.R. 199

Excerpts from C. Dalton, "An Essay in the Deconstruction of Contract Doctrine" (1985) 94 Yale L.J. 997

Hewitt. v. Hewitt 394 N.E. 2d 1204

K. Klare, "The Law School Curriculum in the 1980s: What's Left?" (1982) 32 J. Legal Ed. 336

D. Kennedy, "Rebels from Principle" (1981) Harvard Law School Bulletin

WEEK 5: LAW AND ECONOMICS I

C.G. Veljanovski, The New Law and Economics A Research Review Chapters 1, 2 and 3 (1982)

E.W. Kitch, "The Intellectual Foundations of 'Law and Economics'" (1983) 33 J. Legal Educ. 184

F.I. Michelman, "Reflections on Professional Education, Legal Scholarship, and the Law and Economics Movement" (1983) 33 J. Legal Educ. 197

Reading List for Economic Analysis of Law
Professors M.J. Trebilcock and J.R.S. Prichard

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WEEK 6: LAW AND ECONOMICS II

"Sorry, Your Policy is Cancelled" TIME Magazine March 24, 1986

M.J. Trebilcock, "The Insurance-Deterrence Dilemma of Modern Tort Law: Trends in North American Tort Law and Their Implications for the Current Liability Insurance Crisis" (unpublished paper, May 1, 1986)

WEEK 7 & 8: LEGAL PHILOSOPHY I & II

a. Natural Law and Natural Rights

Introduction from Right Conduct-Theories and Applications ed. M.D. Bayles and K. Henley (1983)

Excerpts from Aquinas, Summa Theologica

Excerpts from J. Locke, Two Treatises of Government (1690)

Excerpts from R. Nozick, Anarchy, State, and Utopia (1974)

B. Kant and Contractarianism

Introduction - from Right Conduct - Theories and Applications ed. M.D. Bayles and K. Henley (1983)

Excerpts from I. Kant, Foundations of the Metaphysics of Morals

Excerpts from O. Nell, Acting on Principles: An Essay on Kantian Ethics (1975)

Excerpts from J. Rawls, A Theory of Justice (1971)

C. Utilitarianism

Introduction - from Right Conduct - Theories and Applications ed. M.D. Bayles and K. Henley (1983)

Excerpts from J.S. Mill, Utilitarianism (1861)

Excerpts from J.J.C. Smart, "Extreme and Restricted Utilitarianism" (1956) 6 The Philosophical Quarterly

Excerpts from R.B. Brandt, "Some Merits of One Form of Rule-Utilitarianism" (1967)

WEEK 9: FEMINIST JURISPRUDENCE I

Materials to be distributed

WEEK 10: FEMINIST JURISPRUDENCE II

C.A. MacKinnon, "Feminism, Marxism, Method, and the State: An Agenda for Theory" (1982) 7 Signs 515

C.A. MacKinnon, "Feminism, Marxism, Method, and the State: Toward Feminist Jurisprudence" (1983) 8 Signs 635

WEEK 11: LAW & SOCIOLOGY I

D. Black, "The Boundaries of Legal Sociology" from The Sociology of Law - A Conflict Perspective ed. C.E. Reznarski and R.M. Rich (1978)

J. Hagan, M. Huxter and P. Parker, "Class Structure and Legal Practice: Inequality and Mobility Among Toronto Lawyers" (unpublished)

M. Galanter, "The Legal Malaise; Or, Justice Observed" (1985), 19 Law & Soc. Rev. 537

WEEK 12, LAW & SOCIOLOGY II

M. Galanter, "Reading the Landscape of Disputes: What We Know (and Think we Know) About Our Allegedly Contentious and Litigious Society" (1983) 31 U.C.L.A. L.R. 4

J. Hagan, "Can Social Sciences Save Us: The Use of Social Science Evidence in Constitutional Litigation" (unpublished)

WEEK 13: LEGAL RESEARCH AND LEGAL EDUCATION IN CANADA

Excerpts from Law and Learning: Report of the Consultative Group on Research and Education in Law (1983) (the Arthurs Report)

J.H. Schlegel, "Langdell's Legacy Or the Case of the Empty Envelope", (1984) 36 Stanford L.R. 1517.

D. Soberman, Review of Arthurs Report, (1984) 10 Queen's L.J. 236.

